

JUL 05 2013

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

NICHOLAS BARBATI,

) CASE NO. 7:13CV00048

Petitioner,

)

v.

) FINAL ORDER

WARDEN, USP LEE COUNTY,

) By: Glen E. Conrad

Respondent.

) Chief United States District Judge

)

In accordance with the accompanying memorandum opinion, it is hereby

ADJUDGED AND ORDERED

that petitioner's motion for summary judgment (ECF No. 25) is **DENIED**; the respondent's motion to dismiss (ECF No. 33) is **GRANTED**; and this action is stricken from the active docket of the court.

Further, finding that petitioner has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(1), a certificate of appealability is **DENIED**.

ENTER: This 5th day of June, 2013.



Chief United States District Judge